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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

New Hampshire Public Utilities Commission)
Petition for Delegation of Additional Authority)
to Implement Number Optimization Measures)
in the 603 Area Code)

NSD File No. L-99-71

Implementation of the Local Competition)
Provisions of the Telecommunications Act of 1996)

CC Docket No. 96-98

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) hereby files its comments on the petition filed by the New Hampshire Public Utilities Commission (New Hampshire) for additional authority to implement various number conservation measures in the above-captioned proceeding.¹ USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the exchange carrier-provided access lines in the United States.

In its petition, New Hampshire seeks delegated authority to implement interim unassigned number porting (UNP), implement mandatory thousand block pooling trials using denigrated software services until later editions are available, adopt interim number assignment standards, enforce number assignment standards, including auditing the use of numbering resources and reclaiming unused and reserved exchange codes, and revise rationing procedures if

¹ Public Notice, DA 99-1894, released September 15, 1999 (Public Notice).

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necessary. New Hampshire states that it seeks this authority to create competitive use of numbers by competitive carriers and to forestall the exhaust of the state's only NPA code.

The New Hampshire petition is the ninth request of a state filed with the Commission since February seeking similar individual state relief to deal with number shortages.² However, it is the first petition where comments are being filed after the Commission has granted portions of five of the states' requests.³ As USTA has cautioned, other states have jumped on the bandwagon with "me too" applications, thereby creating a burden on the Commission's processes and the industry's resources. USTA believes that the industry's and the nation's first priority in these matters must be to develop and implement a nationwide, uniform system of numbering. The Commission has consistently stated that it intends to develop a nationwide, uniform system of numbering and that such a system is "essential to the efficient delivery of telecommunications services in the United States."⁴ The Commission has further recognized that the industry, the Commission, and the states should work together to develop national methods to conserve and promote efficient use of numbers, but that those attempts "cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country."⁵

² New York Department of Public Service Petition, NSD File No. L-99-21 (New York Petition); Massachusetts Department of Telecommunications and Energy Petition, NSD File No. L-99-19 (Massachusetts Petition); Maine Public Utilities Commission Petition, NSD File No. L-99-27 (Maine Petition); Florida Public Service Commission Petition, NSD File No. 99-33 (Florida Petition); Californian Public Utilities Commission and People of the State of California Petition, NSD File No. 98-136 (California Petition); Texas Public Utility Commission Petition, NSD File No. 99-55 (Texas Petition); Connecticut Department of Public Utility Control Petition, NSD File No. 99-62 (Connecticut Petition); and Wisconsin Public Service Commission Petition, NSD File No. L-99-64 (Wisconsin Petition).

³ Order on New York Petition, FCC 99-247, released September 15, 1999 (New York Order); Order on Massachusetts Petition, FCC 99-246, released September 15, 1999 (Massachusetts Order); Order on Florida Petition, FCC 99-249, released September 15, 1999 (Florida Order); Order on California Petition, FCC 99-248, released September 15, 1999 (California Order); and Order on Maine Petition, FCC 99-260, released September 28, 1999 (Maine Order).

⁴ Memorandum Opinion and Order and Order on Reconsideration, *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, NSD File No. L-97-42, 13 FCC Rcd 19009 at ¶ 21 (1998).

⁵ *Id.*

Having already granted relief to five states, the Commission and the industry are now confronted, as could be easily foreseen, by a deluge of requests and an onslaught on the national numbering process.⁶ We believe that the Commission should adhere to its policy that orderly national numbering conservation and administration measures are essential to the optimization of the North American Numbering Plan (NANP). The Commission must not further yield to the requests by New Hampshire and other states to fragment and decentralize number administration. As USTA has repeatedly stated, the effects would be disastrous to number planning and conservation in this country. It would result in a significant loss of effectiveness of the national program and its numbering conservation and administrative policies, and the diversion of resources will delay development of effective national measures. The Commission needs to focus on these national programs and the development of orderly national measures, rather than to devote so much of its own and the industry's resources to these individual state requests that will undermine the vital national scheme.

USTA has filed comments on each of the petitions, opposing the states' requests for additional authority that would jeopardize the industry processes underway for comprehensive nationwide number conservation. USTA has also addressed the issue of the states' authority to implement conservation measures on an individual basis in its comments and reply comments in response to the Commission's Notice of Proposed Rulemaking in CC Docket No. 99-200, Numbering Resource Optimization (Notice).⁷ Notwithstanding the Commission's partial grant of some of the states' requests, USTA continues to oppose the grant of additional authority to individual states in contravention of the nationwide number conservation policies and

⁶ New Hampshire states its view, and a view that other states may be expected to follow, when it contends that, "If authority is only given to the largest states, or limited in applicability to the most densely populated areas, it will not avail New Hampshire." New Hampshire Petition at 7.

⁷ FCC 99-122, released June 2, 1999.

procedures. USTA opposes grant of the New Hampshire petition for the reasons articulated in those pleadings. It becomes a superfluous exercise to repeat the same arguments against each state request, but those arguments are likewise applicable to the relief requested in the New Hampshire petition. Rather than repeat the reasons, USTA hereby incorporates by reference all its pleadings filed in the proceedings listed in footnotes 2 and 7, *supra*.

New Hampshire states that it has conditioned its approval of implementing an overlay on requiring the Incumbent Local Exchange Carriers to develop UNP and to make it available within six months of the New Hampshire Commission order implementing an NPA relief plan.⁸ As stated below, the Commission has denied other states' requests to implement UNP. New Hampshire cannot condition use of a particular relief plan on the implementation of UNP. Such conditions invalidate the entire relief plan. The Commission has stated its unwillingness to grant authority to the states to adopt rationing measures absent a specific relief plan.⁹

USTA provides the following comments on New Hampshire's specific requests for authority in light of the Commission's recent actions on other states' petitions.

1. Unassigned Number Porting

The Commission denied requests of other states to implement UNP on the basis that it is at too early a stage of development to order implementation.¹⁰ The Commission recognized the specific concerns of the impact on carriers' ability to control their own number inventories, the difficulty in forecasting future numbering needs, and the impact on carriers' switching systems, among others. For these reasons, the Commission should likewise deny New Hampshire's request to engage in UNP.

⁸ New Hampshire Petition at 5.

⁹ See New York Order at 15.

2. Thousand Block Pooling

New Hampshire seeks authority to implement thousand block pooling trials using the software version 1.4 and upgrade to the version 3.0 when it is adopted as a national standard. A number of carriers, including AT&T and MCI Worldcomm, have objected to additional deployment of version 1.4. The Commission should investigate the problems connected with this version and should not, in the meantime, delegate any authority that would permit any state commission to require its further deployment.

We must reiterate that the industry is working energetically to conclude development of the details of thousand-block pooling that is supported by version 3.0 of the NPAC software. Pooling based on version 1.4 in Illinois has been a valuable learning experience for the industry, but it also has its problems, one of which is that it cannot support efficient data representation (EDR). The industry is not looking to this form of pooling for long term deployment. USTA also believes that the notion that version 1.4 can be deployed quickly is incorrect. It is essential that all industry energy and activity be focused on the form of pooling to which the industry has committed for the future. For these reasons, we urge the Commission to conclude that any pooling deployment ordered pursuant to Commission authority be compliant with version 3.0.

3. Code Reclamation, Data Reporting, and Audits

New Hampshire seeks a variety of delegations. We will address them in categories, first of which is the authority to reclaim codes:

- "(1) reclaim codes obtained in violation of Central Office Code Assignment Guidelines (Guidelines) and any other applicable rules,
- "(2) reclaim codes which are being used to provide service in violation of state law,

¹⁰ New York Order at 17, Florida Order at 18, Massachusetts Order at 18-19, and Maine Order at 11-12.

"(3) reclaim codes that were acquired by carriers certifying that they would be facilities-based, but who have failed to establish facilities with the appropriate time frame."¹¹

In response to a complaint stated in the Wisconsin Petition, USTA has previously maintained that the Commission should clarify the responsibility and authority of the North American Numbering Administrator (NANPA).¹² We also observe that California, New York, Florida, Massachusetts, and Maine have each requested relief similar to that which has been requested here. The Commission has uniformly responded to those requests and we believe that the form of the Commission's response is very close to what is required for a broader solution to these problems. In each case, the Commission stated, "Therefore, we grant authority to the [state] Commission...to direct the NANPA to reclaim NXXs that the [state] Commission determines have not been activated in a timely manner.... We further direct the NANPA to abide by the [state] Commission's determination to reclaim an NXX code if the [state] Commission is satisfied that the code holder has not activated the code within the time specified by the CO Code Assignment Guidelines."¹³

In this delegation, the Commission has not authorized the state commissions to reclaim NXX codes themselves, but to direct the NANPA to reclaim codes. In the Commission's prescription, it is still the NANPA that reclaims the codes. USTA believes that if, in the first instance, the NANPA was confident of its authority and obligations, it would, on its own, reclaim codes that NANPA knew were being used in any manner inconsistent with the guidelines. If those conditions were clear, and the state commission were to advise the NANPA of misuse of codes, and provide support for that conclusion, we believe NANPA would reclaim the codes. This supports the assertion that delegation of the authority requested by New

¹¹ New Hampshire Petition at 12.

¹² USTA Reply Comments in Docket No. 99-200, USTA Comments on Wisconsin Petition.

Hampshire in the three numbered items above is not necessary. If the Commission were to validate the authority and responsibility of the NANPA to act in accordance with provisions in the guidelines, and require that the NANPA must consider evidence provided by regulatory commissions when making such decisions, the authority requested would be unnecessary.

USTA recommends that the Commission affirm the authority and responsibility of the NANPA to act in accordance with provisions in the industry guidelines and that NANPA is to consider information provided by state commissions in reaching its conclusions. Given that clarification, we believe the delegated authority requested is unnecessary.

The petition also requests authority to "establish interim mandatory number utilization data reporting and forecasting requirements"¹⁴ and to "establish fill rates for growth codes."¹⁵ USTA believes that the long term national structure being developed by the NANC provides for reporting of sensitive details of usage of numbering resources to the NANPA, and will contain conditions for release of such information to state commissions. For that reason, we object to grant of state authority to require direct reporting of usage information to state commissions as being inconsistent with well-settled conditions in the developing national structure. Likewise, because the matter of establishment of fill rates is such a difficult issue, we believe grant of such authority to New Hampshire should be denied.

Nonetheless, we must observe that the Commission has granted analogous authority to California and New York.¹⁶ Indeed, in those grants, we believe that the Commission's own stated concerns would persuade that such authority should not be granted. We believe that the request should be denied; however, if the Commission does determine that such a grant will be

¹³ California Order at 16, New York Order at 11, Florida Order at 22, Massachusetts Order at 11, and Maine Order at 9.

¹⁴ New Hampshire Petition at 12.

¹⁵ *Id.* at 11.

made in this case as well, we urge that the cautions and conditions stated in the California and New York grants be maintained.

New Hampshire also requests authority to "establish auditing procedures and implement random audits **(in addition to any auditing efforts of the FCC and NANPA).**"¹⁷ USTA believes that this request should be denied. In the Commission's grant of authority to New York and Maine,¹⁸ the Commission reiterated that this is a topic in the Numbering Resource Optimization Notice, and that the grant is limited in duration until Commission action on that Notice. While we understand the need to be able to determine the actual use of resources, given the impending action contemplated by the Commission, we cannot see how an effective auditing plan could be placed in effect and provide any positive result before the Order is available. In such a situation, the plan would likely have to be dismantled. We cannot see the benefit of such a waste of effort and resources.

In addition, the New Hampshire request includes grant of authority that goes beyond efforts of the Commission and NANPA. At the very least, any such additional efforts must be carefully specified before they could be given any valid consideration. Such ill-defined requests for authority in such a sensitive matter must be denied.

4. Revision of Rationing Procedures

New Hampshire requests temporary authority "only as a last resort...to revise rationing procedures during the jeopardy period without industry consensus so that, in the event that other number conservation measures are projected to be successful, but merely require a few additional months to be fully implemented, NXX code rationing can be tailored to match the

¹⁶ California Order at 12, New York Order at 12.

¹⁷ New Hampshire Petition at 12 (emphasis added).

¹⁸ New York Order at 16-17, Maine Order at 11.

implementation cycle."¹⁹ USTA believes that this proposal must be rejected, if for no other reason than for its imprecision and lack of specificity. If the overlay relief plan that New Hampshire has proposed can be legitimized by removal of the conditions placed on it (see *supra*), the relief plan can be implemented quickly and in an overlay, numbers in the new NPA are assigned only where needed.²⁰ Without additional specificity, the Commission must reject this proposal. The authority requested is so vague that it may not observe the concerns stated by the Commission in its authority granted to New York.²¹

¹⁹ New Hampshire Petition at 13.

²⁰ One of the advantages of an overlay plan that is often overlooked in the impassioned rhetoric concerning the "anti-competitive effects" of overlays is that numbers from the new NPA are only assigned where they are needed. If a split were to be made, in the area in which the new code is to be assigned, everyone must change numbers. In an overlay, consumers outside the area where exhaust is a problem need only be concerned with dialing a new NPA when there is a need to reach subscribers with the new numbers. Numbers with the new NPA are assigned only in the area in which exhaust is a problem. USTA sees that as a powerful argument in favor of overlays.

²¹ New York Order at 15.

Conclusion

USTA urges the Commission to deny the New Hampshire petition for the reasons stated above and in its previous comments and reply comments in CC Docket No. 99-200 and in response to similar requests by other states.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By  _____

Its Attorneys:

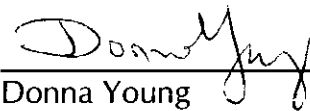
Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W. Hunter
Julie L. Rones

1401 H Street, N.W.
Suite 600
Washington, D.C. 20005
(202) 326-7375

October 5, 1999

CERTIFICATE OF SERVICE

I, Donna Young, do certify that on October 5, 1999, copies of the accompanying Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



Donna Young

Larry Eckhaus
E. Barclay Jackson
New Hampshire PUC
Eight Old Suncook Road
Concord, NH 03301

ITS
1231-20th Street, NW
Washington, DC 20036